

REMARKS

Claims 24, 26, 27, and 40-70 are pending. By this response no claims are canceled, amended, or added. No new subject matter is introduced.

Applicant acknowledges that the Examiner has withdrawn previous rejections of claims 24, 28, and 29 under 35 U.S.C. § 102 for alleged anticipation by Hinrichs et al., Dolganov et al., Stanford et al., Levy et al., Green et al., Ono et al., Cha et al., Harada et al., and McKnight et al.

Information Disclosure Statement

Applicant acknowledges with thanks that the Examiner has now considered the references originally cited in the Information Disclosure Statement (IDS) filed with the Form PTO 1449 on July 23, 1999. Applicant further acknowledges that the Examiner has considered the references cited in the Information Disclosure Statement (IDS) filed with the Form PTO 1449 on February 10, 2004.

It has come to the attention of the Applicant's representative that the Information Disclosure Statement (IDS) filed with the Form 1449 on December 9, 2003, has not been acknowledged by the Examiner. Applicant received a return postcard stamped by the USPTO indicating that the IDS, Form 1449, and references cited therein were received by the USPTO on December 9, 2003. The Examiner is requested to acknowledge receipt and consideration of the IDS received by the USPTO on December 9, 2003.

Claim Rejections under 35 U.S.C. § 102

The Examiner indicated that claims 24, 26, 27, 42, 56, 68, and 70 are rejected under 35 U.S.C. § 102(e) as being anticipated by Davis et al. (US 6,406,705). More specifically, the Examiner asserts on page 3 of the Office Action that Davis et al. has a priority date of March 10, 1997, as determined under pre-AIPA 35 U.S.C. 102(e), and teaches a pharmaceutical composition consisting of the polynucleotide sequence of SEQ ID NO:10 and which further comprises a phosphorothioate internucleotide linkage, a peptide or polysaccharide antigen, and a

pharmaceutically compatible diluent. For reasons set forth below, Applicant respectfully disagrees and requests the Examiner to withdraw the rejection.

It is acknowledged that Davis et al., filed on June 3, 1999, discloses SEQ ID NO:10 and claims priority to March 10, 1997. However, Applicant respectfully points out that SEQ ID NO:10 is not disclosed in the priority application for Davis et al. More specifically, Davis et al. is a continuation-in-part of US 09/154,614, based on PCT/US98/04703, filed on March 10, 1998. Review of WO 98/40100, corresponding to PCT/US98/04703, reveals that SEQ ID NO:10 is not expressly disclosed in PCT/US98/04703, even though Davis et al., filed as a continuation-in-part on June 3, 1999, discloses SEQ ID NO:10. The instant application was filed January 23, 1998. Therefore, it is respectfully submitted that, with respect to SEQ ID NO:10, Davis et al. does not anticipate claims 24, 26, 27, 42, 56, 68, and 70 under 35 U.S.C. § 102(e). Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 24, 26, 27, 42, 56, 68, and 70 under 35 U.S.C. § 102(e).

Claim Rejections under 35 U.S.C. § 103

The Examiner indicated that claims 24, 26, 27, 40-45, 48, 49, 51-53, 56, 59, 63, 65, 68, and 70 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis et al. (*supra*) in view of the combined teachings of Hinrichs et al., Dolganov et al., Stanford et al., Levy et al., Green et al., Ono et al., Cha et al., Harada et al., and McKnight et al. For reasons set forth below, Applicant respectfully disagrees and requests the Examiner to reconsider and withdraw the rejection of claims 24, 26, 27, 40-45, 48, 49, 51-53, 56, 59, 63, 65, 68, and 70 under 35 U.S.C. § 103(a).

Applicant respectfully submits that the rejections under 35 U.S.C. § 103(a) ought to be withdrawn because the reliance on Davis et al. as prior art is misplaced (see above). In particular, the rejection relies on the mistaken assumption that the priority document for Davis et al. discloses a composition comprising the polynucleotide sequence of SEQ ID NO:10, which comprises a binding site for a transcription factor and phosphorothioate internucleotide linkages, and which composition further comprises a peptide or polysaccharide antigen, and a pharmaceutically compatible diluent. Page 7 of Office Action. Accordingly, Applicant

respectfully requests the Examiner to reconsider and withdraw the rejection of claims 24, 26, 27, 40-45, 48, 49, 51-53, 56, 59, 63, 65, 68, and 70 under 35 U.S.C. § 103(a).

For the record, Applicant also respectfully points out that Levy et al. does not disclose an oligonucleotide consisting of a sequence provided as SEQ ID NO:19 (as claimed in claim 63).

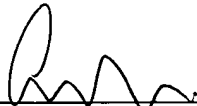
Claim Objections

The Examiner indicated that claims 46, 47, 50, 54, 55, 57, 58, 60-62, 64, 66, 67, and 69 appear free of the prior art or record but are objected to because they depend from a rejected base claim. Specifically, these claims all depend, directly or indirectly, from claim 24. For reasons provided above, Applicant respectfully submits that claim 24 should not be rejected under either of 35 U.S.C. § 102 or 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the objections to claims 46, 47, 50, 54, 55, 57, 58, 60-62, 64, 66, 67, and 69.

Summary

Arguments are set forth to overcome all claim rejections and claim objections. Applicant believes the application is in condition for allowance. A Notice of Allowance is earnestly solicited. Should the Examiner have any questions, she is requested to call Applicant's representative at the number shown below.

Respectfully submitted,
Wagner et al., Applicant

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